

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

PHILLIP E. TURNER,

Plaintiff,

vs.

GATES CORPORATION,

Defendant.

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Case No. 1:05CV00196 ERW

MEMORANDUM AND ORDER

This matter comes before the Court upon Defendant's Motion to Dismiss [doc. #7].

On October 25, 2005, Plaintiff filed an Complaint, alleging that he was discriminated against due to his race and sex. In his Complaint, Plaintiff states that the Equal Employment Opportunity Commission issued him a Notice of Right to Sue Letter, which he received on July 12, 2005. On December 23, 2005, Defendant filed the instant Motion to Dismiss, in which Defendant argues that Plaintiff's Complaint is untimely because it was filed more than ninety days after his receipt of his Notice of Right to Sue Letter. *See* 42 U.S.C. § 2000e-5(f)(1) (aggrieved person may bring claim within ninety days of receipt of Notice of Right to Sue letter). On February 7, 2006, the Court determined that Plaintiff had failed to respond to Defendant's Motion to Dismiss. On that date, the Court ordered Plaintiff to show cause no later than February 21, 2006, why Defendant's Motion to Dismiss should not be granted. The Court stated that failure to comply with the Order may result in dismissal of Plaintiff's Complaint.

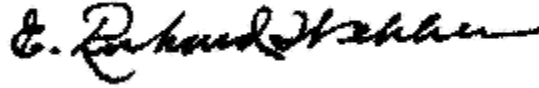
Plaintiff has failed to respond to Defendant's Motion to Dismiss and has failed to respond to this Court's order to show cause. Thus, it appears that Defendant has no objection to the dismissal of his Complaint. The Court will grant Defendant's Motion.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss [doc. #7] is **GRANTED**.

All claims against Defendant Gates Corporation are **DISMISSED** with prejudice. An appropriate order of dismissal shall accompany this Order.

So Ordered this 24th day of February, 2006.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written in a cursive style.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE